

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
)	
)	
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**COMMENTS OF THE
Education and Libraries Networks Coalition
(EdLiNC)**

The Education and Libraries Networks Coalition (EdLiNC), a group comprised of the major public and private K-12 education associations and the American Library Association (see Appendix A for full list), writes in opposition to the request by Funds for Learning (FFL), contained in Public Notice DA-1133, that the Commission reject the Universal Service Administrative Company's (USAC) Priority Two threshold recommendation for Funding Year 2010. Specifically, EdLiNC disagrees with the implication of FFL's filing that \$400 million in unused E-Rate funds should be added to Funding Year 2010's annual cap, thereby likely permitting USAC to fund all Priority Two applicants eligible for 80% and higher discounts to receive their full discounts. While EdLiNC is sympathetic to FFL's desire to drive Priority Two funding down to lower discount percentage brackets this year, we are extremely concerned that applying unused funding now will inevitably lead to the very lowest income eligible applicants receiving no or pro-rated discounts for their Priority Two discount requests in the next funding year.

Historically, EdLiNC has always advocated on behalf of our nation's neediest schools and libraries receiving priority in support from the E-Rate program. We do so because those schools and libraries that have 90% discount rates receive the program's deepest discounts for two main reasons: 1) they serve America's lowest income and highest cost communities; and 2) the students, educators and community members who matriculate, work or reside within their ambit are usually those least able to afford access to advanced telecommunications and information services. Therefore, we cannot support any proposal that could lead to a weakening of protections or support for the lowest income E-Rate applicants. Because FFL's request would lead to low income, but not the lowest income, Priority Two applicants in 2010 gaining priority over the program's very lowest Priority Two applicants in 2011, we urge the Commission to approve USAC's Program Year 2010 Priority Two threshold recommendation.

This Public Notice, though, points up a much bigger issue than just funding in Program Years 2010 and 2011: the insufficiency of funds under the E-Rate's cap to meet existing and future demand. Repeatedly, EdLiNC has warned the Commission that a funding crisis in the program was imminent. As recently as last year, we argued that the E-Rate's \$2.25 billion annual cap must be raised substantially as it falls well short of the average annual demand of \$4 billion and that the program's ability to fund any Priority Two requests was in jeopardy. Even the Commission itself recognized the validity of our concerns in a May 2010 Notice of Proposed Rulemaking¹, where it acknowledged the following points:

- "(D)emand for funding far exceeds available funding every year. "
- "This year...approximately \$2 billion alone was requested for telecommunications and internet access, leaving very little funding available for the internal connections that are necessary to bring higher bandwidth connectivity from a single location in the school to the classroom. "
- "It is likely this year that only school districts with nearly 75 percent of students eligible to receive free or reduced price lunch will receive any funding for internal connections."
- "In future years...it is likely that requests for telecommunications and internet access services will exceed the cap, with the result that no funding for internal connections will be available for any applicants."
- "(M)any requests for priority two services are denied, and over the years, the vast majority of requests for internal connections have gone unfunded. "

See Notice at "7, 62.

The Commission's response to this impending crisis has been less than adequate. It approved only an incremental annual adjustment in the cap, tied to inflation, which netted but a fraction of the sums needed to meet ongoing E-Rate demand. Worse, it eroded even this limited additional support by approving new services that may ultimately cost the program much more than the incremental cap adjustments will add.

Now comes FFL's request which, unwittingly, calls the question of the continued viability of Priority Two support immediately. While USAC has not yet released its Demand Estimate for Funding Year 2011, based on previous program funding records that indicate growing demand for Priority One services, it is very likely that, without the carry-over of unused funds, there will be insufficient funds available to provide all eligible 90% applicants with Priority Two support. Last year's demand estimate provides an excellent guide: demand for Priority One services was \$2.038 billion while demand by 90% applicants for Priority Two services was \$1.003 billion. USAC was only able to fund to 81% this year because of application attrition/rejections and, most importantly, the infusion of \$650 million in unused funds from previous years. If demand levels in Funding Year 2011 are consistent with or higher than in Funding Year 2010, USAC and the Commission will have to face the fact that the very lowest income schools and libraries will not be able to receive all, if any, of their Priority Two discount requests.

The inability to receive all or some of their internal connections discounts would be devastating to many of the schools and libraries that occupy the 90% bracket. With a number of school districts and libraries continuing to face severe budget crises, a significant proportion of them

¹ See In the Matter of Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future, CC Docket No. 02-6, GN Docket No. 09-51, FCC 10-83 (reI. May 20, 2010)

would be forced to abandon their connectivity plans if internal connections funding is unavailable. Even pro-rating E-Rate's discounted internal connections support, which would lead to higher unreimbursed costs for many low income schools and libraries, might prove prohibitive and lead them to drop-out of the program entirely.

Finally, we must take issue with FFL's suggestion in its filing that USAC was proposing the Priority Two threshold based on "administrative convenience." As we understand the E-Rate program's rules, E-Rate is capped annually at \$2.25 billion per year and additional funds may be added by the FCC, only if it elects to do so. Over the past several years, the FCC has seen fit to add unused funds from previous funding years in order to fund more applications. Each year, USAC, per its charge by the FCC, makes recommendations to the Commission and the USAC Board regarding the discount level to which it can reasonably fund Priority Two service applications. There are three main reasons that it is important for USAC to make this recommendation each year: 1) to give applicants a degree of certainty as soon as possible so that they can adequately plan for their technology needs; 2) to inform applicants, as soon as possible and before the next application window, so that they will not apply for the same services in two years and artificially inflate demand, thereby unnecessarily tying up money for other deserving applicants; and 3) to allow applicants as well as service providers to have a decision as quickly as possible so that they can make alternative plans, if necessary and possible. In EdLiNC's view, USAC's recommendation to the USAC Board and the Commission that existing funds are not sufficient to fund 80% for Priority Two services for Funding Year 2010 represents the fulfillment of its responsibilities; it does not represent actions taken for administrative convenience.

In summary, EdLiNC supports USAC's recommendation on the Funding Year 2010 Priority Two threshold and urges the Commission to approve it. To add \$400 million in unused funds to Funding Year 2010 would overturn the Commission's and EdLiNC's priorities for Funding Year 2011 and damage the interests of the very lowest income schools and libraries -- for which the E-Rate program was established.

Appendix A

EdLiNC is a coalition of educational and library groups that have been working together to provide schools and libraries with affordable access to telecommunications and to ensure the effective implementation of the program. More information about EdLiNC is available from our website at <http://www.edlinc.org>. EdLiNC's members include:

American Association of School Administrators
American Library Association
Association of Educational Service Agencies
Consortium for School Networking
Council of Chief State School Officers
International Society for Technology in Education
National Association of Elementary School Principals
National Association of Independent Schools
National Association of Secondary School Principals
National Catholic Educational Association
National Education Association
National Rural Education Association Coalition
National School Boards Association
United States Conference of Catholic Bishops